

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Michael Cristofalo et al.	Examiner:	Chenea Smith
Serial No.:	10/695,663	Group Art Unit:	2623
Filed:	October 29, 2003	Docket No.:	2050.140US1
Title:	SYSTEM AND METHOD FOR PROVIDING TRIGGERED EVENT COMMANDS VIA DIGITAL PROGRAM INSERTION SPLICING		

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicants request review of the final rejection in the above-identified application in Final Office Action mailed March 20, 2008. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated below:

***§103 Rejection of the Claims***

Claims 1 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Safadi (U.S. Patent No. 6,487,721) in view of Ridderheim et al. (U.S. Patent No. 6,986,153). Applicants respectfully submit that the rejection of claims 1 and 9 under 35 U.S.C. § 103 is defective for the reason that a person of ordinary skill in the relevant field starting with Safadi and Ridderheim would not have found the limitations of claims 1 and 9 obvious.

Claim 1 includes the following limitation:

*a digital splicer which receives the message from the ad server, extracts the attached command and splices the command into a digital transport stream including program content,*

The Final Office Action contends that the limitation “digital splicer” in the above quoted claim language is taught/suggested by the “encoder/mux 120” as illustrated<sup>1</sup> below:

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<sup>1</sup> Safadi., FIG.3

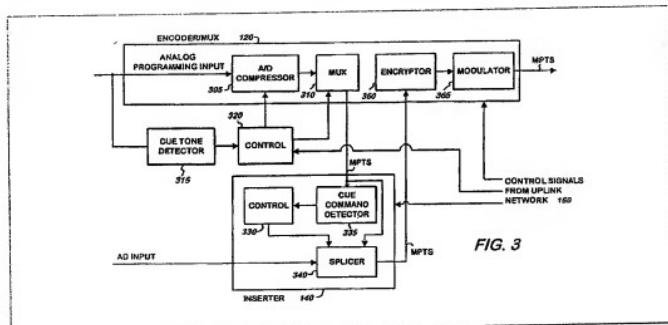
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"The encoder / mux 120 receives an analog signal and encodes the analog signal as an spliceable MPEG-2 compressed stream.<sup>2</sup> The encoder / mux 120 further converts cue tones to cue commands that may be read by an inserter 140, 220. Safadi states:

The encoder/mux 120 encodes a given analog signal as a spliceable MPEG-2 compressed stream. If the input signal contains any cue tones, the encoder converts them to cue commands that may later be used by the uplink inserter(s) 140 or the headend inserter(s) 220.<sup>3</sup>

The Final Office Action, in rejecting claim 1, further contends that the above limitation "receives a message" is taught/suggested by the following quote from Safadi:

In response to such detection, a signal is provided to a control 320, which in turn generates a cue command message (e.g., a protocol message, that may span one or more MPEG-2 sections) and/or mux 310 for insertion into the digitized bit stream.<sup>4</sup>

The above quote from Safadi relates a cue command message (e.g., protocol message) that is communicated by a control 320 to convert cue tones to cue commands.

The Final Office Action, in rejecting claim 1, further contends that the phrase "extracts the attached command" in the above quoted claim language is taught/suggested by the following quote from Safadi:

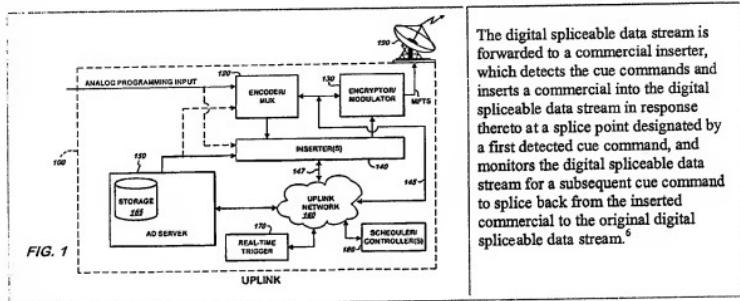
<sup>2</sup> Id. col. 6. lines 19-23.

<sup>3</sup> Id.

<sup>4</sup> Id. col. 8, lines 25-28.

The control 320 can still cause a cue command to be inserted into the digital input at the mux 310, e.g., in response to a control signal received from the uplink network 160 or a local scheduler/controller or real-time trigger.<sup>5</sup>

The above quote from Safadi relates to insertion of a cue command. Specifically, the control 320 can cause a cue command to be inserted into the digital input at the mux 310.



The above FIG.1 illustrates a digital television uplink site 100 and includes the previously described encoder / mux 120. The digital television uplink site 100 receives an analog programming input which is processed by the encoder / mux 120. The encoder / mux 120 converts cue tones in the analog programming input to cue commands in a digital spliceable data stream (e.g., MPTS) and communicates the digital spliceable data stream to a commercial inserter 140. The commercial inserter 140 responds to a first cue command in the digital spliceable data stream by inserting a commercial into the digital spliceable data stream. The commercial inserter 140 continues to monitor the digital spliceable data stream for a subsequent cue command. The commercial inserter 140 responds to a subsequent cue command by splicing back from the inserted commercial to the original digital spliceable data stream.

Claim 1 requires a digital splicer which receives a message from an ad server, extracts the attached command and splices the command into a digital transport stream including program content. In contrast, the above quotes and illustrations from Safadi relate an encoder / mux 120

<sup>5</sup> *Id.*, col. 8, lines 25-28.

<sup>6</sup> *Id.*, col. 3, lines 30-37.

that communicates and receives a cue command message that is inserted into the digitized bit stream. Accordingly, Safadi fails to disclose a digital splicer, as required by the limitations of claim 1, much less a digital splicer that receives a message from an ad server.

Safadi fails to disclose a digital splicer that receives a message from an ad server in two respects. First, an encoder / mux is not a "digital splicer." Indeed, Safadi relates both a splicer 340 and an encoder / mux 120<sup>7</sup>. Clearly the encoder / mux 120<sup>8</sup> cannot be a "digital splicer," as required by claim 1. Second, Safadi does not disclose a digital splicer that receives a message as required by the limitations of claim 1. Indeed, Safadi relates an encoder / mux 120 internally processing a cue command. Specifically, Safadi relates a mux 310 that receives a cue command message (e.g., protocol message) from a control 320. Albeit, Safadi illustrates the control 320 as outside the line delimiting the encoder / mux 120. Nevertheless, Safadi states, "If the input signal contains any cue tones, the *encoder* converts them to cue commands ..." <sup>9</sup> Accordingly, Safadi does not disclose a digital splicer which receives a message from an ad server, as required by the limitations of claim 1. Rather, Safadi relates an encoder / mux 120 that internally processes a cue command.

Safadi further fails to disclose a digital splicer that extracts an attached command from a message. Safadi relates a control 320 that can cause a cue command message (e.g., protocol message) to be inserted into digital input in response to a control signal. Causing a cue command message (e.g., protocol message) to be inserted in response to a control signal is not the same as extracting an attached command from a message. Indeed, Safadi cannot possibly disclose the extraction of an attached command from a message because Safadi never discloses a message having an attached command, as required by the limitations of claim 1.

Broadly, Safadi relates an encoder / mux 120 that inserts cue commands into a digital spliceable data stream to enable a commercial inserter to insert a commercial into the digital spliceable data stream. The commercial inserter inserts a commercial into the digital spliceable data stream responsive to detecting a first cue command and splices back from the inserted commercial to the original digital spliceable data stream responsive to detecting a second cue command. Accordingly, Safadi relates an inserter that *monitors* a digital spliceable data stream to

<sup>7</sup> *Id.*, col. 6, lines 18-23.

<sup>8</sup> *Id.*, col. 6, lines 18-23.

<sup>9</sup> *Id.*, col. 6, lines 19-23 (emphasis added).

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identify cue commands that have *already been inserted* into a digital spliceable data stream. In contrast, claim 1 requires a digital splicer which receives a message from an ad server, extracts the attached command and splices the command into a digital transport stream including program content. These are more than distinguishable features. These are fundamentally different systems.

Applicant refers the panel to response to Final Office action mailed May 13, 2008 regarding Ridderheim and Eldering.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 408-278-4041 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date July 21, 2008

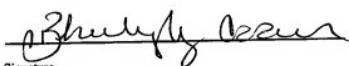
By \_\_\_\_\_

  
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop After Final, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21 day of July 2008.

Zhakalazky M. Carrion

Name

  
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